

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.29655 of 2007

DAMAYANTI DEVI, W/O Late Rajendra Prasad, Acting Head
Mistress, Arya Kanya Vidyalaya (Prathimik) Naya Tola, Patna
At present resident of Mohalla-Nagarnausha Kothi, Makhaniya
Kuan, P.s. Pirbahore, Patna ----- **Petitioner**
Versus

1.The State of Bihar
2. Ratna Arya W/O Rameshwar Prasad Yadav, resident of Mohalla-
Bari Path, Pirbahore, Distt-Patna. ---- **Opp.Parties.**

For the petitioner :Mr.Suraj Narain Prasad Sinha, Sr.Advocate
Meera Kumari, Advocate
For the State : Mr.Jharkhandi Upadhaya, A.P.P.
For Opp.Party No.2 : Mr.Rajiv Roy, Advocate.

ORDER

4 10.11.2008

The petitioner, who along with others has been arrayed as
an accused in Complaint Case no.2402 (C) of 2004 , has prayed for
the quashing of the order dated 21.4.2007 passed by the learned
Presiding Judge, Fast Track Court no.2, Patna, in Cr.Revision no.739
of 2006/57 of 2006, arising out of order dated 14.7.2006 passed in the
aforesaid complaint case by Sri Shobha Kant Mishra, Judicial
Magistrate, First Class, Patna, whereby he had partly rejected the
petition of the petitioner under Section 245 Cr.P.C.

It appears that one Ratna Arya, impleaded herein as
Opp.Party no.2, filed the aforesaid complaint on 9.10.2004 inter alia
alleging that the complainant was employed in the Arya Kanya
Vidyalaya , Naya Tola ,Patna since 2.2.1990 and superannuated from
service as Headmistress on 30.6.2004. It is said that she later on got
appointed as Anudeshik-cum- Sanrrakshika of the said School on
temporary basis for six months,i.e. up to July 2004 on a monthly

honorarium of Rs.5000/- . It is said that after her retirement as Headmistress , Bhup Narayan Shastri ,(accused no.1), Pradhan of Bihar Arya Prathinidhi Sabha appointed his son-in-law , namely, Ajit Kumar Rai (accused no.2) in her place as Principal of the said girl school which was against the Bye-laws of the said school and Bihar Education Code ,as accused no.2 was neither a female nor had the requisite qualification. The Block Development Officer,Patna under orders of the District Magistrate, Patna visited the School on 23.9.2004 to hold an enquiry in respect of financial irregularities and appointment scam , but at the relevant time, neither the Principal nor the President nor the Secretary were present in the school and as the complainant was available , the Block Development Officer started making enquiry from her and she presented the true and correct position before the Enquiry Committee on that day. It is alleged that when the complainant returned to her residence, accused nos.2,3,4 and 5 , namely, the Principal, the President , the Secretary and another extended threats to her through telephone to suffer dire consequence for having given the true and correct information to the Enquiry Committee and on the following day at about 11.30 A.M. the aforesaid four persons handed over letter no.248 of 2004 to her and forcibly obtained her signature while she was in the Principal's Chamber. She was also allegedly abused and manhandled and they were trying to misbehave with her by pulling her sari. 2-3 persons arrived and saved her from further shame. It has been alleged that the said occurrence was at the instance of accused no.1, the Pradhan . The

complainant also alleged that as she had not received her provident fund and gratuity amount after her retirement, she had gone to the school on 21.9.2004 and requested the accused no.2 for the same, but he demanded Rs.20,000/- as gratification from her. It is also alleged that accused no.1 Bhup Narain Shastri had misused a huge amount of the school and had been made an accused in similar type of defalcation at Ranchi vide Dhurwa P.S. Case no.8 of 2004. It is further alleged that she had informed the local police and the District Magistrate, who assured her to go to the school without fear for receiving her provident fund and gratuity amount and when on 13.9.2004 at about 11.00 A.M. she went there with her husband, Rameshwar Prasad Yadav, and requested them to recommend for the provident fund and gratuity amount, she was abused and kicked out, whereafter accused no.2 snatched her gold chain worth Rs.6,000/-, accused no.5 snatched her purse containing Rs.500/- and accused nos.3 and 4 had pointed pistol at her and her husband and warned them not to raise alarm.

It has been submitted on behalf of the petitioner that it would be apparent from the reading of the complaint petition that her entire grievance was against the Management Committee of the School who had not paid her gratuity amount and provident fund and the petitioner though having no role to play in any of the occurrences and having no concern with the Management Committee had been unnecessarily dragged by virtue of her being acting Headmistress at the relevant time. It was further submitted that even if the allegation of

the complainant are accepted at their face value , there is no allegation of commission of any overt act by her and she was not responsible for non payment of gratuity amount and provident fund and the court below without taking any of these into account had mechanically taken cognizance.

There appears sufficient force in the submissions advanced by the learned counsel for the petitioner. In fact, there is no accusation against her in the entire complaint, which is primarily directed against the other accused named therein. Even at the enquiry, no allegation has been attributed to the petitioner.

Due regard being had to the facts and circumstances of the case , this is a fit case where this Court should interfere to prevent the abuse of the process of the court and, accordingly ,allow the application by quashing the impugned order so far as the petitioner is concerned.

(Abhijit Sinha, J)

NKS/-

